

§ 1115.6

as close to the service date as practicable. No reply need be filed. Where time permits, a party may elect to file a reply.

(c) A petition or reply must not exceed 10 pages in length.

[47 FR 49568, Nov. 1, 1982, as amended at 61 FR 52714, Oct. 8, 1996]

§ 1115.6 Exhaustion of remedies and judicial review.

These rules do not relieve the requirement that a party exhaust its administrative remedies before going to court. Any action appealable as of right must be timely appealed. If an appeal, discretionary appeal, or petition seeking reopening is filed under § 1115.2 or § 1115.3 of this part, before or after a petition seeking judicial review is filed with the courts, the Board will act upon the appeal or petition after advising the court of its pendency unless action might interfere with the court's jurisdiction.

[47 FR 49568, Nov. 1, 1982, as amended at 61 FR 52714, Oct. 8, 1996]

§ 1115.7 Petitions for judicial review; mailing address.

Petitions for judicial review of final agency orders may be served on the Board pursuant to 28 U.S.C. 2112(a) and be addressed to "General Counsel, Office of the General Counsel, Surface Transportation Board, Washington, DC 20423."

[53 FR 20854, June 7, 1988, as amended at 61 FR 52714, Oct. 8, 1996]

§ 1115.8 Petitions to review arbitration decisions.

An appeal of right is permitted. The appeal must be filed within 20 days of a final arbitration decision, unless a later date is authorized by the Board, and is subject to the page limitations of § 1115.2(d). Standards for Board review of arbitration decisions are set forth in *Chicago and North Western Transp. Co.—Abandonment*, 3 I.C.C.2d 729 (1987), *aff'd sub nom. International Brotherhood of Electrical Workers v. STB*, No. 87-1629 (D.C. Cir. November 25, 1988). The timely filing of a petition will not automatically stay the effect

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of the arbitration decision. A stay may be requested under § 1115.5.

[54 FR 19894, May 9, 1989, as amended at 61 FR 52714, Oct. 8, 1996]

§ 1115.9 Interlocutory appeals.

(a) Rulings of Board employees, including administrative law judges, may be appealed prior to service of the initial decision only if:

(1) The ruling denies or terminates any person's participation;

(2) The ruling grants a request for the inspection of documents not ordinarily available for public inspection;

(3) The ruling overrules an objection based on privilege, the result of which ruling is to require the presentation of testimony or documents; or

(4) The ruling may result in substantial irreparable harm, substantial detriment to the public interest, or undue prejudice to a party.

(b) In stand-alone cost complaints, any interlocutory appeal of a ruling shall be filed with the Board within three (3) business days of the ruling. Replies to any interlocutory appeal shall be filed with the Board within three (3) business days after the filing of any such appeal. In all other cases, interlocutory appeals shall be filed with the Board within seven (7) calendar days of the ruling and replies to interlocutory appeals shall be filed with Board within seven (7) calendar days after the filing of any such appeal as computed under 49 CFR 1104.7.

[61 FR 52714, Oct. 8, 1996, as amended at 61 FR 58491, Nov. 15, 1996]

PART 1116—ORAL ARGUMENT BEFORE THE BOARD

Sec.

1116.1 Requests.

1116.2 Manner of presentation.

AUTHORITY: 49 U.S.C. 721.

SOURCE: 47 FR 49569, Nov. 1, 1982, unless otherwise noted.

§ 1116.1 Requests.

(a) *Addressee.* Requests for oral argument should be addressed to the Secretary, Surface Transportation Board, Washington, DC 20423.

(b) *Who may request?* Any party may submit a written request for oral argument and state the reasons for the request. No replies from other parties to the request shall be made.

(c) *When to file a request.* Requests for oral argument should be filed within 20 days after the date of service of the decision, order, or requirement being appealed, unless the Board by order prescribes a different time period.

(d) *Granting of request.* The Board will rule upon requests by decision, and the granting of requests is entirely at the discretion of the Board.

§ 1116.2 Manner of presentation.

Proponents of a rule or order will be heard first, and opponents will be heard second. One counsel only will usually be heard for each of the opposing interests, unless additional presentations are specifically authorized.

PART 1117—PETITIONS (FOR RELIEF) NOT OTHERWISE COVERED

AUTHORITY: 49 U.S.C. 721.

§ 1117.1 Petitions.

A party seeking relief not provided for in any other rule may file a petition for such relief. The petition should contain (a) a short, plain statement of the grounds upon which the Board's jurisdiction is based; (b) a short plain statement of the claim showing that the petitioner is entitled to relief; and (c) a demand for the relief the petitioner believes is appropriate.

[47 FR 49569, Nov. 1, 1982]

PART 1118—PROCEDURES IN INFORMAL PROCEEDINGS BEFORE EMPLOYEE BOARDS

Sec.

1118.1 Scope.

1118.2 Proceedings to be informal.

1118.3 Appeals.

AUTHORITY: 49 CFR 721.

SOURCE: 62 FR 50884, Sept. 29, 1997, unless otherwise noted.

§ 1118.1 Scope.

The rules in this part govern proceedings before employee boards.

§ 1118.2 Proceedings to be informal.

The proceedings in all matters governed by this part will be informal. No transcript of these proceedings will be made. Subpoenas will not be issued and, except when applications, petitions, or statements are required to be attested, oaths will not be administered.

§ 1118.3 Appeals.

(a) *Standing to appeal.* Appeals of the decisions of the employee boards subject to this part and replies to appeals may be filed by any person.

(b) *Number of copies.* The original and 10 copies of each pleading or paper permitted or required to be filed under this section should be furnished for the use of the Board.

(c) *Time for filing.* Appeals in proceedings governed by this part must be filed within 20 days after the date of service of the decision.

(d) *Where filed.* Appeals and replies to appeals of decisions issued by employee boards must be filed with the Secretary, Surface Transportation Board, 1925 K St., NW., Washington, DC 20423-0001.

(e) *Decisions on appeal.* An appeal from an employee board's initial decision in a matter subject to this part will be reviewed by the employee board, which may elect to modify its decision in light of new facts or arguments presented on appeal. If the employee board elects not to modify its prior decision, the appeal will be forwarded to the entire Board for determination. If a modified decision is issued by the employee board, a further appeal lies under this part.

PART 1119—COMPLIANCE WITH BOARD DECISIONS

AUTHORITY: 49 U.S.C. 721.

§ 1119.1 Compliance.

A defendant or respondent directed by the Board to do or desist from doing a particular thing must notify the Board on or before the compliance date specified in the decision of the manner of compliance. Notification should be by verified affidavit showing simultaneous service upon all parties to the